

Exhibit I

1 UNITED STATES DISTRICT COURT

2 DISTRICT OF MINNESOTA

3 *****

4 IN RE: CENTURYLINK SALES PRACTICES

5 AND SECURITIES LITIGATION

6 MDL No. 17-2795 (MJD/KMM)

7 This Document Relates to:

8 Civil File No. 18-296 (MJD/KMM)

9 *****

10 30(B)(6) DEPOSITION OF THE STATE OF OREGON,

11 MICHAEL VITERI AS REPRESENTATIVE

12 THURSDAY, MARCH 5, 2020

13 VOLUME I

14
15
16
17 BE IT REMEMBERED THAT, the 30(B)(6) deposition of THE
18 STATE OF OREGON, MICHAEL VITERI AS REPRESENTATIVE was
19 reported by Mary C. Soldati, Registered Professional
20 Reporter and Certified Shorthand Reporter, on Thursday,
21 March 5, 2020, commencing at the hour of 9:35 a.m., the
22 proceedings being reported at the Offices of Stoll
23 Berne, PC, 209 SW Oak, Suite 500, Portland, Oregon
24 97204.
25

Page 1

APPEARANCES

Appearing on behalf of the Plaintiff:

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-AND-

MR. MICHAEL BLATCHLEY

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Appearing on behalf of the Defendant:

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Also present: Deena Bothello, Keith Dubanevich

Lani Milton, Videographer

P R O C E E D I N G S

THE VIDEOGRAPHER: We are now on the record.

The time is 9:35. Today's date is Thursday March 5, 09:38:58
2020.

This is the start of the video recorded
deposition of Michael Viteri. It's being taken in the
matter of CenturyLink Sales Practices and Securities
Litigation. It is filed in the U.S. District Court in 09:39:14
the District of Minnesota and the MLD number is 17-2795.
This deposition is being held at Stoll Berne, located in
Portland, Oregon.

My name is Lani Milton. I am the
videographer from the firm Veritext, here with court 09:39:35
reporter, Mary Soldati, also with the firm Veritext.

Counsel, could you please introduce
yourselves and association for the record.

MR. MARTIN: Chris Martin of Cooley LLP on
behalf of the Defendants. 09:39:49

MR. BLAIR: Ryan Blair, also from Cooley
LLP, on behalf of Defendants.

MR. MUELLER: Keil Mueller of Stoll Berne on
behalf of the plaintiffs and the witness.

MR. BLATCHLEY: Michael Blatchley from 09:39:58

Page 6

1 Bernstein Litowitz Berger & Grossman on behalf of the
2 plaintiffs.

3 MS. BOTHELLO: Deena Bothello on behalf of
4 the witness.

09:40:17

5
6 STATE OF OREGON, MICHAEL VITERI AS
7 REPRESENTATIVE,

8 was thereupon produced as a witness and, after having
9 been sworn on oath, was examined and testified as
10 follows:

11

12 EXAMINATION

13

14 BY MR. MARTIN:

15 Q. Good morning, Mr. Viteri. As I just said, my
16 name is Chris Martin. My colleague Ryan Blair and I are
17 with the law firm Cooley, and we represent the
18 Defendants in this case.

09:40:20

19 At the outset, I just want to thank you for
20 sitting in this deposition today. We appreciate your
21 time, and we're going to do our best today to work
22 efficiently so we can get you out of here as quickly as
23 possible.

09:40:29

24 So I'm going to start with a few introductory
25 questions, and then we can talk about the ground rules

09:40:40

Page 7

1 for today's deposition.

2 Is that okay?

3 A. Sure.

4 Q. Will you please state your name for the record?

5 A. Michael Viteri. 09:40:48

6 Q. And you are an employee of the State of Oregon,
7 correct?

8 A. That is correct.

9 Q. And what is your official title as of today?

10 A. Senior Investment Officer, Public Equities. 09:40:57

11 Q. And will you please describe for your me your
12 primary responsibilities in your current roles?

13 A. Primary responsibilities for managing all aspects
14 of publicly traded securities and overseeing external
15 managers on behalf of Oregon State Treasury by various 09:41:13
16 clients.

17 Q. And when you say "all aspects of publicly traded
18 securities," can you give me an example of what you
19 mean?

20 A. The simplest level, we end up Oregon State -- on 09:41:26
21 behalf of Oregon State Treasury, we manage multiple
22 internally managed strategies, so we're directly
23 managing stock portfolios, U.S. and non-U.S. strategies.

24 And we oversee external managers; we hire,
25 retain, terminate external managers on behalf of OPERF 09:41:43

Page 8

1 and other clients for the purposes of investment
2 management services.

3 Q. Is it correct to say that you're managing
4 investment portfolios for a number of state funds,
5 correct?

09:41:57

6 A. Correct.

7 Q. One of them is OPERF; is that correct?

8 A. That is correct.

9 Q. And what does OPERF stand for, for the record?

10 A. Oregon Public Employees' Retirement Fund.

09:42:01

11 Q. Okay. And I think you, in your answer a moment
12 ago, you mentioned both a portfolio and a fund.

13 Can you just explain, for the record, what the
14 difference is between those two?

15 A. I apologize. Sure. We're managing internal
16 portfolios on behalf of the fund.

09:42:16

17 So we're internal investment managers and we
18 oversee the external investment managers as well.

19 Q. Are the portfolios specific to particular funds
20 or is it portfolios across multiple funds?

09:42:32

21 A. In this case the internal portfolios we manage
22 are specifically for OPERF.

23 Q. Okay. What about apart from OPERF?

24 MR. MUELLER: Counsel, I just want to state
25 for the record, as we stated in our objections to your

09:42:45

Page 9

1 30(b)(6) notice.

2 The witness here today is testifying on
3 behalf of Oregon, as its defined in the Complaint.

4 I think we all understand that that's the

5 Oregon State Treasury and Oregon Public Employees 09:42:57

6 Retirement Board on behalf of OPERF, the Oregon Public
7 Employees Retirement Fund.

8 Mr. Viteri is not here to testify on behalf
9 of other state funds.

10 MR. MARTIN: Okay. I understand plaintiff's 09:43:12
11 objection.

12 Are you instructing the witness not to
13 answer?

14 MR. MUELLER: He can answer the question.

15 MR. MARTIN: Okay. 09:43:19

16 BY MR. MARTIN:

17 Q. The question was, what about a part from OPERF?

18 A. Could you put it in another context?

19 Q. Sure. So I think you testified a moment ago that
20 you were managing portfolios for multiple funds on 09:43:32
21 behalf of the Treasury; is this correct?

22 A. That is correct.

23 Q. And I asked if the portfolios are specific to
24 funds or if the portfolios are across multiple funds.

25 What is the answer to that question? 09:43:45

1 A. We manage portfolios for OPERF. We manage
2 portfolios for Common School Fund. We manage portfolios
3 for State Accident Insurance Fund.

4 Q. And are those all separate portfolios?

5 In other words, is the portfolio for the Common 09:44:02
6 School Fund separate from the portfolio from OPERF?

7 A. That is correct.

8 Q. And the portfolio for the State Accident
9 Insurance Fund is separate from the portfolio from
10 OPERF? 09:44:17

11 A. That is correct.

12 Q. Okay. Who do you report to in your current role?

13 A. I report directly to the chief investment
14 officer, John Skjervem. S-K-J-E-R-V-E-M. And he is the
15 chief investment officer. 09:44:34

16 Q. And in his role as chief investment officer, he
17 oversees all investment activities of the Department of
18 Treasury?

19 MR. MUELLER: Object to form.

20 BY MR. MARTIN: 09:44:48

21 Q. You can answer.

22 A. Yes.

23 Q. And in addition to the investment activities that
24 you described a moment ago relating to global equities,
25 what other investment activities does he oversee? 09:45:00

1 2008.

2 Prior to that, I was at a small equity shop hedge
3 fund called Fan Asset Management in Mountain View,
4 California, from 1999 to 2000. Part of that was Arizona
5 State Retirement System again for a three-year period;
6 so '97, '98, '99.

10:01:25

7 Q. Okay. Do you understand that the Lead Plaintiff
8 in this litigation is -- I want to make sure I get this
9 right -- the State of Oregon by and through the Oregon
10 State Treasurer and Oregon Public Employees Retirement
11 Board on behalf of the Oregon Public Employees
12 Retirement Fund?

10:01:42

13 A. I believe that is correct. I think it's in the
14 Complaint. If you want to give me a copy, I can
15 double-check what you said.

10:01:55

16 Q. Your understanding is that the Lead Plaintiff in
17 this case is the State of Oregon?

18 MR. MUELLER: Objection.

19 BY MR. MARTIN:

20 Q. Let me ask it a different way.

10:02:03

21 What is your understanding of who the Lead
22 Plaintiff is in this case?

23 A. The Lead Plaintiff -- is ultimately the losses
24 that were incurred by the Oregon Public Employees
25 Retirement System Fund. That's not a person. It's its

10:02:19

Page 24

1 own entity.

2 And on behalf of that entity, the Oregon State

3 Treasury and OPERF, Oregon Public and Portland TriMet

4 System Board act as fiduciaries.

5 So I would say it's the combination of those 10:02:38

6 fiduciaries that are acting on behalf of the Oregon

7 Public Employees Retirement System Fund.

8 And I think that's what you just articulated as

9 far as at lengthy description of who is bringing the

10 lawsuit. 10:02:54

11 Q. Okay. Is your understanding that the State of

12 Oregon Public Employee Retirement System Fund is its own

13 legal entity?

14 A. It's a fund, so yes.

15 MR. MUELLER: I'm going to object to that to 10:03:08

16 the extent it calls for a legal conclusion.

17 BY MR. MARTIN:

18 Q. So for the sake of simplicity today, I'm going to

19 refer to the Lead Plaintiff as the State of Oregon.

20 And when I say the "State of Oregon," you 10:03:20

21 understand that I mean the State and its subdivisions

22 and agencies, correct?

23 MR. MUELLER: And we're going to object to

24 that question for the reasons that we've stated.

25 That definition you've just offered is 10:03:36

1 on the Bloomberg terminal that you referenced earlier?

2 A. Not with respect to this particular Complaint.

3 Q. I'm not sure I understand.

4 So you testified earlier that you learned about

5 this lawsuit for the first time by reading about it in 10:29:03

6 the news media; is that correct?

7 A. In that case, I misspoke. I learned about

8 multiple lawsuits that were occurring through reading

9 news articles in Bloomberg.

10 And this would be lawsuits that were brought 10:29:23

11 about July 12th, 2017 by the Minnesota Department of

12 Justice, information that came out in other lawsuits,

13 back to -- I believe June 19th, 2017 there were multiple

14 consumer lawsuits happening at the time.

15 Those are the lawsuits which I was referring to. 10:29:47

16 Q. So I'm asking about this lawsuit. When did you
17 learn about this lawsuit?

18 A. Within the last couple of weeks.

19 Q. Do you remember a date or around when you learned
20 about this lawsuit? 10:30:01

21 A. Not specifically.

22 Q. How did you come to learn about the existence of
23 this lawsuit?

24 A. I believe one of the first conference calls we
25 had with Stoll Berne was a week ago Wednesday, probably 10:30:19

1 cramming, and not only overcharging, but illegal
2 activity; was happening at CenturyLink in charging
3 customers.

4 BY MR. MARTIN:

5 Q. And the answer that you just gave, what is the 10:33:13
6 basis for it?

7 MR. MUELLER: Object to the form of the
8 question.

9 THE WITNESS: I don't understand "basis."
10 If you could explain that. 10:33:25

11 BY MR. MARTIN:

12 Q. You just explained your understanding of what
13 this case is about, correct?

14 A. Correct.

15 Q. And how did you come to have that understanding 10:33:31
16 of what this case is about?

17 MR. MUELLER: Object to the form of the
18 question. And again, object to the extent that there's
19 a topic -- for which we've designated another witness on
20 this issue. 10:33:45

21 Mr. Viteri can answer to the extent he
22 knows.

23 THE WITNESS: I read through the Complaint.

24 BY MR. MARTIN:

25 Q. Okay. So the explanation that you provided just 10:33:50

1 now is based solely on information you learned by
2 reading the Complaint; is that correct?

3 MR. MUELLER: Object to the form of the
4 question.

5 THE WITNESS: Predominantly, but it's also 10:34:00
6 informed by news information that I had read over the
7 last few years on other lawsuits that CenturyLink was
8 involved in.

9 Again, going back to the State of Minnesota
10 DOJ suit, which would have happened back in July 12th, 10:34:22
11 2017, and immediately after that, information on other
12 lawsuits that were happening.

13 That was part of the normal news information
14 that would flow through something like Bloomberg. In
15 fact, I believe it was Bloomberg that broke the story, 10:34:37
16 the whistleblower story on the newswire.

17 BY MR. MARTIN:

18 Q. Prior to meeting with counsel a week ago and
19 talking with them on the phone, did you have an
20 independent recollection of knowing about consumer 10:34:53
21 lawsuits that had been filed against CenturyLink?

22 MR. MUELLER: Object to the form of the
23 question. Asked and answered.

24 THE WITNESS: I do have some recollection.

25 BY MR. MARTIN: 10:35:06

1 funds.

2 Q. Okay. So to prepare for today, you read the
3 Complaint, you reviewed the spreadsheet, you
4 participated in two telephonic conferences and you
5 participated in an all-day meeting, correct?

11:06:42

6 MR. MUELLER: Object to form.

7 THE WITNESS: Correct.

8 BY MR. MARTIN:

9 Q. Did you do anything else to prepare for your
10 testimony today?

11:06:47

11 A. No.

12 Q. Okay. I want to begin talking about the various
13 entities that are in play here and how they work
14 together.

15 So can you explain the function of the Oregon
16 State Treasury at a high level?

11:07:06

17 A. The Oregon State Treasury has statutory authority
18 and responsibility to manage all the state investment
19 pools.

20 These investment pools would be -- an example of
21 these investment pools would be Oregon Public
22 Retirement -- Public Employees Retirement System Fund or
23 Fund, Common School Fund, State Accident Insurance Fund,
24 Oregon Short-Term Fund.

11:07:35

25 So at a broad level, Oregon State Treasury

11:07:57

Page 67

1 provides an investment management function for those
2 state tools.

3 Q. And Oregon State Treasury is an agency of the
4 State of Oregon?

5 A. That is correct. 11:08:08

6 Q. And where are its offices located?

7 A. Oregon State Treasury is headquartered in Salem,
8 Oregon, the capital.

9 Our investment management offices are located in
10 Tigard, Oregon. 11:08:24

11 Q. Tigard?

12 A. Correct.

13 Q. And is Oregon State Treasury governed by a person
14 or a board?

15 MR. MUELLER: Object to the form of the 11:08:36
16 question.

17 THE WITNESS: Oregon State Treasury is led
18 by an elected official. At this point in time, it's
19 Tobias Reed.

20 BY MR. MARTIN: 11:08:45

21 Q. And when was Tobias Reed elected to be Oregon
22 State Treasurer?

23 A. I believe three years ago.

24 Q. And who is -- and the State of Oregon Treasurer
25 today, Tobias Reed, is responsible for all of the 11:09:02

1 activities of the Oregon State Treasury?

2 MR. MUELLER: Object to the form.

3 THE WITNESS: Yes.

4 BY MR. MARTIN:

5 Q. Including the activities of the investment 11:09:12
6 management division?

7 MR. MUELLER: Object to the form.

8 THE WITNESS: I would agree.

9 BY MR. MARTIN:

10 Q. And who is the Oregon State Treasurer ultimately 11:09:24
11 answerable to?

12 MR. MUELLER: Object to the form.

13 THE WITNESS: I believe the voters of the
14 State of Oregon. He's an elected official.

15 BY MR. MARTIN: 11:09:39

16 Q. Okay. What about the Oregon Investment Council?
17 What is that entity, if it is an entity?

18 MR. MUELLER: Object to the form.

19 THE WITNESS: I'm not sure of the legal
20 definition of the Oregon Investment Council, whether it 11:09:53
21 is an entity or not.

22 BY MR. MARTIN:

23 Q. What is it?

24 MR. MUELLER: Object to the form.

25 THE WITNESS: If you ask what it is, again, 11:10:13

1 to me that's almost a legal question on what form it
2 takes legally, so I'm not prepared to answer that
3 question.

4 BY MR. MARTIN:

5 Q. No, I'm not asking for a legal conclusion. 11:10:22

6 I'm just asking the State of Oregon what the
7 Oregon Investment Council is.

8 A. The Oregon Investment Council is comprised of the
9 treasurer and four other board members, which are
10 appointed by the State of Oregon Governor's Office. 11:10:34

11 And their responsibility -- fiduciary one to all
12 the investment activity of the Oregon State Treasurer's
13 Office.

14 At least that's my understanding of it. Legally,
15 I think there's differences of opinion from a legal 11:11:04
16 perspective, but I'm not qualified to answer that
17 question.

18 Q. Right. But you understand that Oregon Investment
19 Council or the OIC is responsible for overseeing the
20 activities of -- investment activities of the Oregon 11:11:15
21 State Treasurer?

22 MR. MUELLER: Object to the form.

23 THE WITNESS: I would say they're
24 responsible for overseeing the investments made on
25 behalf of OPERF Common School Fund and the other 11:11:27

1 clients, the other state investment pools for which we
2 manage money -- for which the Oregon State Treasurer's
3 Office manages money.

4 BY MR. MARTIN:

5 Q. And when you say "responsible for overseeing," 11:11:40
6 what do you mean?

7 A. For managing, contracting, terminating investment
8 management services.

9 Q. Are they involved in setting investment
10 philosophies for the Oregon State Treasurer -- excuse 11:11:54
11 me -- the Oregon State Treasury?

12 A. I would say they're a party to that.

13 Q. What about investment objectives? Does the
14 Oregon Investment Council set investment objectives for
15 the Oregon State Treasury? 11:12:18

16 A. I would more aptly describe it as staff in Oregon
17 State Treasury set investment objectives, which are
18 either approved or not approved by the Oregon Investment
19 Council.

20 Q. Ultimately, the Oregon Investment Council decides 11:12:26
21 whether the strategies proposed by the Oregon State
22 Treasury are ones that will be pursued by the Treasury,
23 correct?

24 MR. MUELLER: Object to the form.

25 THE WITNESS: I would agree with that. 11:12:37

1 BY MR. MARTIN:

2 Q. And what about specific investment strategies?

3 What is Oregon Investment Council's role in evaluating

4 or adopting specific investment strategies?

5 MR. MUELLER: Object to the form.

11:12:54

6 THE WITNESS: In the majority of the cases

7 when there's an investment, a new investment being made,

8 a manager that isn't known or isn't part of the

9 historical record of investing on behalf of OPERF,

10 staff, through the chief investment officer, bring

11:13:13

11 presentations and recommendations for hire to the Oregon

12 Investment Council. So the supplies to public equities,

13 fixed income, private equity, real estate and

14 alternative investments.

15 BY MR. MARTIN:

11:13:32

16 Q. Does the Oregon Investment Council set the

17 allocation of client funds across those different

18 products that you just mentioned?

19 A. I would say they approve allocations which are

20 recommended by staff.

11:13:53

21 Q. Treasury staff will recommend allocations across

22 both equities, real estate and then Oregon Investment

23 Council approves or disapproves of those

24 recommendations, correct?

25 A. Correct.

11:14:09

1 Q. Okay. What about OPERF; Oregon Public Employee
2 Retirement Board. What is it?

3 A. They're the state entity that is responsible for
4 administering the system.

5 Q. And when you say "administering the system" what 11:14:30
6 do you mean?

7 A. The system being the liabilities or the monies
8 owed to current retirees and future retirees.

9 So they're responsible for managing beneficiary
10 payments or retirement checks and future retirement 11:14:45
11 benefits. It's administrative in nature.

12 Q. Apologies for interrupting. Does OPERB play any
13 role whatsoever in the investment of OPERB assets?

14 A. No.

15 Q. Okay. 11:15:07

16 MR. MARTIN: I'd like to mark as Exhibit 16,
17 a document from the Oregon Secretary of State's website
18 titled, Office of the State Treasurer Agency
19 Subdivisions.

20 (Exhibit No. 16 marked for identification.) 11:15:49

21 BY MR. MARTIN:

22 Q. Have you had a chance to look at Exhibit 16?

23 A. Yes.

24 Q. So taking a look at the investment -- well, first
25 of all, does this document accurately reflect the 11:16:23

1 constituent divisions of the Oregon State Treasury?

2 A. Seems to be missing one.

3 Q. And which one do you think it's missing?

4 A. The Oregon Savings Growth Plan, which is the

5 State's 457 plan.

11:16:49

6 Q. So that is a separate division of the Oregon

7 State Treasury?

8 A. I would say it's a division of -- that falls

9 under OPERB, PERS. It's another pool of assets that

10 Oregon State Treasurer manages. It's the 457 plan.

11:17:18

11 Q. And it manages those assets separate and apart

12 from the investment division?

13 MR. MUELLER: Object to the form of the

14 question.

15 THE WITNESS: Restate the question.

11:17:29

16 BY MR. MARTIN:

17 Q. Is the Oregon Savings Growth Plan, my

18 understanding is that you just testified that it's a

19 separate division or subdivision of the Oregon State

20 Treasury; is that correct?

11:17:41

21 A. No. I would say it's another pool of assets

22 which Oregon State Treasury manages.

23 Q. Through the investment division?

24 A. Through the investment division.

25 Q. I see. Okay. Well, take a look at the

11:17:59

1 investment division paragraph and just read it for a
2 moment.

3 A. Page 3.

4 Q. Page 3, yes.

5 Okay. Have you had a chance to read that 11:18:39
6 paragraph?

7 A. Yes, I have.

8 Q. Okay. Is the investment division referenced here
9 the only division of the Oregon State Treasury that
10 manages investments? 11:18:51

11 A. They're the only division of State Treasury that
12 manages investments on behalf of the particular entities
13 indicated in this particular paragraph.

14 And that would be OPERF, State Accident Insurance
15 Fund, Oregon Short-Term Fund, Common School Fund, then 11:19:19
16 mentioned down below, the State's Deferred Compensation
17 Plan, which is the Oregon State Retirement.

18 Q. What other divisions of the -- sorry -- the
19 Oregon State Treasury are managing investments?

20 MR. MUELLER: Object to the form of the 11:19:35
21 question.

22 THE WITNESS: Could you define management,
23 please?

24 BY MR. MARTIN:

25 Q. What do you understand management in this context 11:19:53

1 to mean?

2 A. Could you define management, please?

3 Q. Well, I'm asking.

4 A. I asked you first.

5 Q. The difference is that you don't get to ask 11:20:04
6 questions.

7 So I'm asking you, what do you understand
8 investment management to mean?

9 A. Investment management services are the services
10 that we provide -- I say "we." I'm sorry. 11:20:18

11 Oregon State Treasury provides, on behalf of
12 its -- the different state pools, the different clients
13 it has.

14 Those are specific investment management
15 services; buying and selling stock, investing in private 11:20:32
16 equity, investing in real estate, investing in
17 alternatives, investing in fixed income instruments.

18 That's what I define myself to be investment
19 management services.

20 Q. Does any subdivision of the Oregon State Treasury 11:20:49
21 provide those services, other than the investment
22 division described at the top of page 3 of Exhibit 16?

23 A. I would say the Oregon Savings Network, which is
24 at the bottom of page 3, provides services similar to
25 the Oregon Savings Growth Plan. 11:21:10

Page 76

1 Apart from OPERF, which has fixed income and
2 public equity positions, which other funds listed here
3 have fixed income or public equity positions?

4 MR. MUELLER: Objection. Beyond the scope
5 of the -- what the witness is designated here to testify 11:31:51
6 about.

7 You can answer in your personal capacity.

8 THE WITNESS: Common School Fund has public
9 equity and fixed income portfolios and positions.

10 State Accident Insurance Fund has public 11:32:05
11 equity and fixed income positions and portfolios.

12 I would also say the Oregon Savings Growth
13 Plan, State's 457 plan; a volunteer plan in which
14 individual state employees can opt into it. That also
15 holds public equity and fixed income investments, namely 11:32:29
16 in the form of 40 Act Funds, mutual funds.

17 BY MR. MARTIN:

18 Q. And you and your team are responsible for all of
19 the public equity investments made using the assets of
20 OPERF, the State Accident Insurance Fund, the Common 11:32:50
21 School Fund and OSG 457?

22 A. OSGP.

23 MR. MUELLER: Same objection.

24 THE WITNESS: Yes.

25 BY MR. MARTIN: 11:33:04

1 Q. And the senior investment officer you mentioned
2 whose responsible for fixed income, Jeff Nolan?

3 A. Nolan, N-O-L-A-N.

4 Q. Got it. He's responsible for all of the fixed
5 income investments made using the assets of OPERF, the 11:33:22
6 State Accident Insurance Fund, the Common School Fund
7 and OSGP 457?

8 MR. MUELLER: Same objection.

9 THE WITNESS: That is correct. Jeff Nolan
10 joined us a year and a half ago, so he's relatively new 11:33:38
11 to the fund.

12 BY MR. MARTIN:

13 Q. Okay. What is the source of the assets that are
14 in the Public Employee's Retirement Fund, OPERF?

15 A. Could you rephrase that, please? 11:33:51

16 Q. Sure. So you're responsible for managing the
17 public equity assets of the Public Employees Retirement
18 Fund, correct?

19 A. Correct.

20 Q. And what are those assets? 11:34:06

21 A. I'm not clear on what you mean; what are those
22 assets? Those assets are part of the OPERF fund.

23 Q. Right. Where do those assets come from?

24 A. Two sources; investment returns and contributions
25 from state entities that are a part of the PERS return 11:34:38

1 intelligence. They use natural language processors to
2 go through 10-Ks and 10-Qs to get a sense of the tone of
3 senior management and what they're saying or not saying.
4 That could be significant.

5 So it's public information, but it's not 13:37:09
6 necessarily financial information.

7 Q. I see. And your testimony is that the active
8 managers that OST uses are relying not just on financial
9 market information, but also other resources; is that
10 correct? 13:37:29

11 MR. MUELLER: Object to the form of the
12 question.

13 THE WITNESS: Other unique data sources or
14 research that potentially adds value -- that they
15 believe adds value. 13:37:42

16 BY MR. MARTIN:

17 Q. Can you give me an example of some of these other
18 unique data sources that active managers rely on, as
19 they attempt to beat indices?

20 A. Sure. Many trades end up having trade 13:37:56
21 publications, whether it be oil or energy or retail or
22 mall or real estate.

23 Many managers might subscribe to lesser known
24 trade publications. They might try to gather data from
25 those trade publications or any data those managers 13:38:18

1 have.

2 So for instance, the number of shale or oil
3 drilling that's going on. Oil derricks that are in
4 current use.

5 That information isn't readily -- it's publicly 13:38:31

6 available. You have to buy it for a fee, but that's a
7 source of -- that's a unique source of data.

8 Some managers or a particular manager I know uses
9 it in the attempt to add value in that particular sector
10 of the market. That's an example. 13:38:47

11 Q. And that's information that they're using that is
12 not -- the reason it's an advantage is because they're
13 using the information, but it's not available to the
14 broader market; is that right?

15 A. It's available -- 13:38:59

16 MR. MUELLER: Object to the form of the
17 question.

18 THE WITNESS: It's available to the broader
19 market at a fee.

20 BY MR. MARTIN: 13:39:05

21 Q. But it's not as efficiently incorporated into the
22 market as the information that's available for free,
23 correct?

24 MR. MUELLER: Object to the form of the
25 question. 13:39:22

1 Q. For the transactions listed here that were made
2 by internal managers, how would it be possible to figure
3 out who at Treasury made the decision to buy or sell
4 each security here?

5 A. All three of those cases I mentioned those 14:45:43
6 portfolios.

7 Q. I see. So which three did you not make the
8 investment decision on?

9 A. Could you repeat that again?

10 Q. So you said you -- as to the transactions that 14:45:58
11 were made internally at OST, you said all but three you
12 made personally?

13 A. No, no, no. I said I made the investments. I
14 was the portfolio manager trader on the 59 GX, the risk
15 premium portfolio, S&P 500 portfolio, and the RAFI 14:46:17
16 portfolio during the time of this -- of the
17 class-action.

18 Q. You made the investment decision?

19 A. I made the investment decision. I was portfolio
20 manager and trader. 14:46:34

21 Q. I see. And so just to be clear, are there any
22 transactions here by Treasury that were not made by you
23 personally? And by here, I mean in exhibits 20 and 21.

24 A. I may have handed off portfolio management
25 responsibility when I was on vacation to one of the 14:46:58

1 during the class period related to the misstatements and
2 omissions alleged in the Complaint?

3 MR. MUELLER: Same objections.

4 THE WITNESS: So, yes. Again, I would say
5 south of 10 million. 15:18:21

6 BY MR. MARTIN:

7 Q. Right. But presumably the State of Oregon's
8 position is that it lost a certain amount of money on
9 its CenturyLink position during the class period; is
10 that correct? 15:18:34

11 A. Correct.

12 Q. And what I'm asking is, of that loss, how much of
13 it does the State of Oregon attribute to the
14 misstatements and omissions alleged in the Complaint?

15 MR. MUELLER: I'm going to object again, 15:18:46
16 just beyond the scope of the noticed topics.

17 You can answer if you know.

18 THE WITNESS: I would say it allocates all
19 the loss attributed to misleading statements and
20 omissions made by century CenturyLink senior executives 15:19:06
21 during the class-action period, which came out in a
22 rather large way with the June 16th Bloomberg article on
23 a whistleblower, as to the cramming practices at
24 CenturyLink.

25 Suits, the following Monday, on June 19th, 15:19:29

1 of multiple consumer-related actions. And then finally
2 on June 12th, the Department of Justice of Minnesota
3 announcing their lawsuit.

4 As more and more information was uncovered,
5 the actual shenanigans, the misbehavior, the unethical, 15:19:46
6 illegal practices that CenturyLink was engaging in as
7 far as its sales efforts came to light. Prices in the
8 stock dropped, reached a new market level, and that's
9 the basis for the loss.

10 The market didn't have that information 15:20:08
11 prior to the time. Senior management was obfuscating,
12 was lying really about it.

13 When information finally came out, the new
14 market price limit was reached. And that captured what
15 was actually going on. That is where the loss occurred. 15:20:22

16 BY MR. MARTIN:

17 Q. So to circle back to the question, the State of
18 Oregon's position is that all of the loss that it
19 incurred on its CenturyLink position during the class
20 period is attributable to the misstatements and 15:20:36
21 omissions alleged in the Complaint?

22 MR. MUELLER: I'm going to object again.
23 The notice topic is for gains and losses.

24 You questions now are about damages. That's
25 not a noticed topic. It wouldn't be an appropriate 15:20:46

1 topic if it were a noticed topic.

2 If Mr. Viteri has a personal view on this,
3 he can testify.

4 THE WITNESS: I believe so.

5 BY MR. MARTIN: 15:20:58

6 Q. Okay.

7 A. Market and market recovery information is based
8 on truthful information that comes from senior
9 management, through 10-Ks, 10-Qs, there's the
10 expectation that senior management is honest. 15:21:11

11 If they're holding back information on the actual
12 practices, if they're holding information on illegal
13 sales practices, which ended up generating excess
14 revenues, that's not sustainable. It ends up being
15 illegal, and it's artificially propping up the price. 15:21:31

16 That price was popped when -- when --

17 Q. Thank you. All right. I'm going to switch gears
18 a little bit and ask about Topic 5, which is Oregon's
19 knowledge about CenturyLink sales and billing practices,
20 complaints about those practices prior to June 16th, 15:21:48
21 2017?

22 Does any unit of the State of Oregon collect
23 consumer complaints about businesses that operate in
24 Oregon?

25 MR. MUELLER: Objection. Outside of the -- 15:22:01

1 we established earlier, we're all on the same page.

2 Our point of view is that the plaintiff is
3 defined in the Complaint. Mr. Viteri is here to testify
4 on behalf of that plaintiff.

5 If he has personal knowledge on the question 15:22:16
6 you've specifically asked, he can answer it.

7 BY MR. MARTIN:

8 Q. I'm asking if Oregon State Treasury knows whether
9 any unit of Oregon collects consumer complaints about
10 businesses that operate in Oregon. 15:22:30

11 A. I believe so, but I'm not sure. I'm not familiar
12 with those entities. I'm not involved in that on a
13 day-to-day basis.

14 Q. So you don't know whether Oregon receives
15 hundreds, thousands, tens of thousands of consumer 15:22:45
16 complaints in a year?

17 MR. MUELLER: Same objection.

18 THE WITNESS: No. Oregon State Treasury
19 certainly doesn't receive that information.

20 BY MR. MARTIN: 15:22:54

21 Q. I'm not asking if Oregon State Treasury receives
22 that information.

23 I'm asking if any unit of the State of Oregon
24 receives that information.

25 MR. MUELLER: Same objection. 15:23:09

1 THE WITNESS: I don't know.

2 BY MR. MARTIN:

3 Q. And is it the case that customer complaints made
4 to the State of Oregon are particularly common with
5 respect to the telecommunications industry?

15:23:36

6 MR. MUELLER: Same objection.

7 THE WITNESS: I don't know.

8 BY MR. MARTIN:

9 Q. So you don't know what kind of information the
10 State of Oregon collects in the way of consumer
11 complaints?

15:23:52

12 MR. MUELLER: Same objection.

13 THE WITNESS: That is correct. I don't
14 know.

15 BY MR. MARTIN:

15:24:01

16 Q. And you don't know the channels through which an
17 Oregon consumer can report a sales and billing complaint
18 to the State of Oregon?

19 MR. MUELLER: Same objection.

20 THE WITNESS: That is correct.

15:24:13

21 BY MR. MARTIN:

22 Q. Or what happens when a complaint is made?

23 MR. MUELLER: Same objection.

24 THE WITNESS: That is correct.

25 BY MR. MARTIN:

15:24:20

Page 190

1 Q. Or whether there is a determination as to whether
2 a complaint is meritorious or not?

3 MR. MUELLER: Same objection.

4 THE WITNESS: That is correct.

5 MR. MARTIN: Let's take a five-minute break. 15:24:46

6 THE VIDEOGRAPHER: We are off the record at
7 3:24.

8 (Break taken.)

9 THE VIDEOGRAPHER: Back on the record at
10 3:34. 15:34:55

11 BY MR. MARTIN:

12 Q. Mr. Viteri, you testified earlier today that you
13 have a specific recollection of reading certain news
14 articles about CenturyLink; is that accurate?

15 A. That's correct. 15:35:09

16 Q. And tell me about that recollection.

17 A. Sure. It all stems from a good friend of mine,
18 who is a former portfolio manager at Arizona State
19 Retirement System. He was a fixed income portfolio
20 manager. 15:35:23

21 He left to go join Quest, which eventually became
22 CenturyLink. And I would visit him a couple times as
23 friends in Denver.

24 So when the information came out on CenturyLink,
25 right around the same time as Wells Fargo, I was just 15:35:37

1 Q. So do you remember which news articles you read?

2 A. They're on Bloomberg. I have no idea who was the
3 author.

4 Q. Do you recall reading any articles about

5 CenturyLink prior to the ones you're thinking about now? 15:36:56

6 A. No.

7 Q. No?

8 A. It was really kind of the June 16th whistleblower
9 article that came out on Bloomberg. And then the
10 subsequent one that came out on the 19th of June. 15:37:11

11 And then the attorney general article, not
12 article, but lawsuit and that information came out
13 July 12th, I think 2017.

14 Q. And you remember reading those articles
15 independent of seeing them referenced in the Complaint, 15:37:25
16 I take it?

17 A. I remember the whistleblower because it was
18 CenturyLink and it happened right around the time as
19 Wells Fargo.

20 So the subsequent releases and data, it was 15:37:38
21 just -- that's just noise. It's just more information.
22 This was going on. It was systemic.

23 Q. I see.

24 So you view the CenturyLink -- sorry. You view
25 the -- what is it? The June -- it's somewhere. The 15:37:53

1 Bloomberg article about --

2 A. June 16th.

3 Q. June 16th. You view that as the significant
4 news, and everything after that you said you was just
5 more of the same?

15:38:09

6 MR. MUELLER: Objection. That's beyond the
7 scope of the noticed topics.

8 THE WITNESS: That was the significant news,
9 in which it came out that those sales practices, the
10 cramming that was going on, the bait and switch or I
11 guess lying, extortion or whatever you want to call it,
12 that was going on, and the fact within that news
13 article, the senior management had been hiding them.

15:38:20

14 They had known for a long period of time.

15 They knew what the practices were. So I just recall
16 that it was -- it's pretty similar to what was going on
17 with Wells Fargo at the same time.

15:38:34

18 BY MR. MARTIN:

19 Q. You said that the June 16th article was the big
20 one, and then you said the subsequent releases and data,
21 that's just noise. Is that your testimony?

15:38:46

22 MR. MUELLER: Objection. Beyond the scope
23 of the noticed topics. You can testify as to your
24 personal opinion.

25 THE WITNESS: More substantiation of what

15:38:57

1 was going on.

2 BY MR. MARTIN:

3 Q. Substantiation of the June 16th article?

4 A. Of the cramming and the illegal sales practices

5 that were going on at CenturyLink. It was more 15:39:07

6 information that kept on coming out. And price drops

7 that were occurring at that time on June 16th, June 19th

8 and June 12th does.

9 Q. June 12th or July?

10 A. I'm sorry. June 16th, June 19th, July 12th. 15:39:20

11 Q. I see. So you thought the June 19th and July

12 13th [sic] confirmed what was in the 16th article?

13 MR. MUELLER: Same objection. He can

14 testify to his personal knowledge.

15 THE WITNESS: Provided further 15:39:40

16 substantiation that this was systemic. This was

17 happening for quite a while, and it was happening across

18 multiple states, across more than half their client

19 base.

20 BY MR. MARTIN: 15:39:52

21 Q. Those articles referenced allegations and

22 lawsuits, correct?

23 MR. MUELLER: Same objections.

24 THE WITNESS: My recollection was that the

25 first article that came out June 16th was really the 15:40:03

1 whistleblower article that Bloomberg came out, and they
2 reference it within the article that it was similar to
3 Wells Fargo.

4 And again, it was memorable to me because my
5 buddy was working at CenturyLink. I wasn't kind of 15:40:14
6 brazen about it, because he came from Quest.

7 BY MR. MARTIN:

8 Q. And you don't remember reading any articles
9 before or after those three? It's just those three, the
10 ones that are the corrected disclosures in this case 15:40:27
11 that you recall reading about?

12 MR. MUELLER: Objection.

13 THE WITNESS: Before that no. There was no
14 news articles out there.

15 BY MR. MARTIN: 15:40:35

16 Q. There were no news articles about CenturyLink
17 prior to the corrected disclosure referencing the Hizer
18 article?

19 MR. MUELLER: Objection. Misstates
20 testimony. 15:40:45

21 THE WITNESS: There's no news articles that
22 I recall reading with respect to CenturyLink's
23 practices.

24 BY MR. MARTIN:

25 Q. I see. 15:40:53

1 Q. I mean, I take it from what you testified earlier
2 that you think the news in March 2017, for example, is
3 not significant because it's just a couple of people
4 complaining. Is that your position?

5 MR. MUELLER: Object to the form of the 15:57:53
6 question.

7 THE WITNESS: It was just a news article
8 about the unfortunate experiences that a couple
9 CenturyLink employees had.

10 BY MR. MARTIN: 15:58:03

11 Q. Well, it's not a couple, right? It says
12 complaints about the company to Oregon regulators jumped
13 by more than 54 percent in 2015 and then climbed another
14 11 percent last year.

15 That's more than a few customers, isn't it? 15:58:15

16 MR. MUELLER: Object to the form of the
17 question.

18 THE WITNESS: Again, I'm not too sure what
19 the jump is based on, but the number of complaints;
20 54 percent could be from two to three, so I don't have 15:58:24
21 information on that.

22 Both of these articles are highlighting two
23 individuals.

24 BY MR. MARTIN:

25 Q. Are you aware of an Oregon Department of Justice 15:58:49

1 investigation of CenturyLink?

2 MR. MUELLER: Object to the question, so far
3 as it calls to him to answer -- for Mr. Viteri to answer
4 beyond knowledge on the plaintiff as defined in the
5 Complaint. 15:59:10

6 If you have any personal knowledge, you can
7 answer the question.

8 THE WITNESS: I don't have any personal
9 knowledge of any investigation that DOJ was involved in,
10 other than in conjunction with counsel from Stoll Berne 15:59:24
11 and BLBG.

12 Q. Did you just answer that question in your
13 individual capacity or in a representative capacity?

14 I'm trying to understand because I think you said
15 that you did not have personal knowledge of any 15:59:43
16 investigation.

17 Again, I'm not interested in your personal
18 knowledge. I'm interested in the knowledge of the
19 entities that you represent here today, so --

20 A. I'm representing OPERF and Oregon State Treasury. 15:59:53

21 Q. And I'm asking what information -- excuse me.
22 I'm asking whether the entities you represent today
23 during this deposition are aware that the Oregon
24 Department of Justice had conducted an investigation of
25 CenturyLink? 16:00:13

1 MR. MUELLER: Objection. I'm going to
2 object. You haven't put a time period on this.

3 MR. MARTIN: At any point.

4 MR. MUELLER: Today is he aware? Is that
5 the question? 16:00:23

6 BY MR. MARTIN:

7 Q. Let's start with today. Is -- are the entities
8 that you represent aware, today, of an Oregon DOJ
9 investigation of CenturyLink?

10 A. The entities I represent, Oregon State Treasury 16:00:35
11 and OPERF, are aware of a class-action lawsuit that we
12 have against CenturyLink.

13 That class-action lawsuit was informed by
14 conversations with counsel, Stoll Berne, BLBG and the
15 Department of Justice. 16:00:58

16 Q. I'm asking if you are aware of an independent
17 Oregon Department of Justice investigation of
18 CenturyLink?

19 A. No.

20 Q. And that's true of any time period? You're not 16:01:14
21 now nor have you ever been aware of an Oregon Department
22 of Justice investigation of CenturyLink.

23 Is that your testimony?

24 MR. MUELLER: I'm also going to object to
25 this. I assume this relates to Topic 5, which calls for 16:01:34

1 knowledge prior to June 16, 2017.

2 To the extent you're asking about knowledge
3 prior to June 16th, 2017, that's a topic that's been
4 noticed and Mr. Viteri can testify on behalf of Oregon.

5 To the extent you're asking about later 16:01:51
6 periods, that's not a topic that was noticed.

7 MR. MARTIN: I'm asking, just period: Are
8 you aware of an Oregon Department of Justice
9 investigation, independent of lawsuit?

10 MR. MUELLER: I'm saying he cannot answer on 16:02:07
11 behalf of Oregon as to the period prior to June 16,
12 2017.

13 He can answer for himself personally as to
14 any time there after.

15 BY MR. MARTIN: 16:02:16

16 Q. Okay. What's the answer?

17 A. I'm not aware of any independent research or
18 investigation the Department of Justice have been doing,
19 apart from this particular -- the investigations they
20 were doing for this class-action lawsuit. 16:02:32

21 Q. When you say the investigations that they're
22 doing for this class-action lawsuit, what are you
23 referring to?

24 A. The analysis that was conducted in conjunction
25 with counsel, Stoll Berne and BLBG on the 16:02:47

1 misrepresentations and omissions of CenturyLink's senior
2 staff with respect to the cramming and illegal sales
3 practices.

4 That was the data set. That was the information
5 the that DOJ reviewed with counsel.

16:03:07

6 Q. Related to this litigation?

7 A. Related to this litigation.

8 MR. MARTIN: Exhibit 28 is a press release
9 issued by the Oregon Department of Justice on
10 December 31st, 2019, titled: "AG Rosenblum announces
11 four million settlement with CenturyLink."

16:03:52

12 (Exhibit No. 28 marked for identification.)

13 BY MR. MARTIN:

14 Q. Please review 28 and let me know when you're
15 ready.

16:04:16

16 MR. MUELLER: I'm going to go ahead and make
17 the same objection here.

18 MR. MARTIN: I haven't asked a question.

19 MR. MUELLER: Okay.

20 BY MR. MARTIN:

16:05:36

21 Q. Does this document, Exhibit 28, refresh your
22 recollection that the Oregon Department of Justice
23 conducted an investigation of CenturyLink sales and
24 billing practices?

25 MR. MUELLER: Same objections as before.

16:05:48

Page 210

1 The witness can testify on behalf of Oregon to any
2 knowledge of Oregon, as defined in the Complaint, about
3 billing practices prior to June 16, 2017.

4 Beyond that, he can testify in his -- to any
5 personal knowledge he may have. 16:06:03

6 THE WITNESS: I wasn't aware of this
7 settlement or the DOJ investigation and the resulting
8 four million dollar settlement, which seem to be more
9 consumer-related in nature.

10 BY MR. MARTIN: 16:06:16

11 Q. So the entities you're testifying on behalf of
12 today were not aware of this investigation until today?

13 MR. MUELLER: Objection. Misstates
14 testimony. The witness is also not here to testify on
15 behalf of the knowledge of the entities by the DOJ 16:06:32
16 investigation at any time after this date of June 16th,
17 2017, which is the topic you noticed.

18 THE WITNESS: I was not aware.

19 BY MR. MARTIN:

20 Q. Okay. All right, I want to switch gears for a 16:06:50
21 minute.

22 I think this will be the last topic we discuss
23 today, well, for you anyway.

24 I'm going to mark as 29 the Consolidated
25 Securities Class-Action Complaint filed in this action 16:07:25

Page 211

1 Do you recall those questions?

2 A. I do.

3 Q. You also testified this afternoon about a number
4 of topics, including Oregon's outside investment
5 managers, Oregon's transactions in CenturyLink
6 securities, Oregon's policies and procedures.

16:35:19

7 Do you recall that testimony that you went
8 through with Mr. Martin?

9 A. I do.

10 Q. How is it that you are able to provide the
11 testimony that you provided to Mr. Martin?

16:35:30

12 A. A number of things. I reviewed a tome of
13 documents with respect to investment management
14 agreements, complaint spreadsheets, manager
15 presentations, and being familiar with and working with
16 Oregon State Treasury over the last 12 years. I'm one
17 of the senior investment officers there, especially in
18 the public markets.

16:35:54

19 So that knowledge, preparation for this
20 particular deposition and my experience. I've been in
21 the investment management business for 25 years, working
22 in another state retirement plan as well.

16:36:08

23 Q. The tome of documents referred to, that's
24 something you did to prepare to be here and testify to
25 today?

16:36:25

Page 224

1 CERTIFICATE

2
3 I, Mary C. Soldati, Registered Professional
4 reporter, Oregon and Washington Certified Shorthand
5 Reporter, hereby certify that said witness personally
6 appeared before me at the time and place set forth in
7 the caption hereof; that at said time and place I
8 reported in stenotype all testimony adduced and other
9 oral proceedings had in the foregoing matter; that
10 thereafter my notes were transcribed through
11 computer-aided transcription by me; and that the
12 foregoing pages constitute a full, true and accurate
13 record of all such testimony adduced and oral
14 proceedings had, and of the whole thereof. I further
15 certify review of the transcript was requested.

16 In witness whereof, I have hereunto set my hand
17 this 10th day of March, 2020.

18
19
20 <%9191,Signature%>

21
22 Mary C. Soldati, RPR

CSR-WA No. 3406

23 Expires April 20, 2020

24 CSR-OR No. 19-0457

25 Expires April 20, 2022

Page 231

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE: CENTURYLINK SALES
PRACTICES AND SECURITIES
LITIGATION

MDL No. 17-2795 (MJD/KMM)

This Document Relates to:
Civil File No. 18-296 (MJD/KMM)

Errata Sheet to the Transcript of the March 5, 2020 Deposition of Michael Viteri

Page	Line	Change	Reason
10	17	"a part" to "apart"	Spelling
13	6	"treasury" to "Treasury"	Capitalization
21	25	"Approximately" to "approximately"	Capitalization
25	9	"at" to "a"	Typographical error
35	18	"EBLG" to "BLBG"	Typographical error
52	7	"teleco" to "telecom"	Typographical error
70	25	Add comma: "OPERF,"	Typographical error
72	12	"the supplies" to "this applies"	Typographical error
75	17	Add word: "Retirement System "	Typographical error
90	10	Add word "2013 to July"	Typographical error
103	11	"tenants" to "tenets"	Typographical error
104	19	"consulting" to "Consulting"	Capitalization
107	20	"your" to "you're"	Typographical error
116	14	"in" to "and"	Typographical error
124	21	"it's" to "its"	Typographical error
127	11	"under perform" to "underperform"	Typographical error
158	19	"terminate" to "terminated."	Typographical error
161	9	"Centrylink's" to "CenturyLink's"	Spelling
162	10	"Legacy" to "legacy"	Capitalization
164	3	"that terminated" to "that was terminated"	Typographical error
166	6	Delete word "and IMA"	Typographical error
172	17	"that" to "what"	Typographical error
177	11	Add period after "custody bank"	Typographical error
178	24	Delete word: "or Oregon"	Typographical error
181	17	"BLG" to "BLBG"	Typographical error
186	20	Delete word: " century CenturyLink"	Typographical error

218	12	Add comma: "Glen Post,"	Typographical error
230	14	"years" to "years'"	Typographical error
10	17	"a part" to "apart"	Spelling
13	6	"treasury" to "Treasury"	Capitalization

I, Michael Viteri, have read the foregoing transcript, and my testimony, as corrected, above is true and correct.

I hereby certify under penalty of perjury that the foregoing is true and correct.

Date: April 13, 2020


MICHAEL VITERI